

# SENATE JOURNAL

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## IDAHO LEGISLATURE

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FIFTY-NINTH LEGISLATURE

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**FIFTY-NINTH LEGISLATIVE DAY  
WEDNESDAY, MARCH 7, 2007**

Senate Chamber

At the request of President Pro Tempore Geddes, Senator Darrington called the Senate to order at 10 a.m.

Roll call showed all members present except President Pro Tempore Geddes; and Senators Andreason, Cameron, Langhorst, Little, Lodge, Malepeai, McKenzie, Pearce, and Stegner, absent and excused.

Prayer was offered by Senator Fulcher.

The Pledge of Allegiance was led by Sibylle Gorla, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 6, 2007, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senators Langhorst, Malepeai, and McKenzie were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

Senators Andreason, Cameron, Little, Lodge, and Pearce were recorded present at this order of business.

March 7, 2007

The JUDICIARY AND RULES Committee reports that **S 1192, S 1193, S 1194, S 1195, S 1196, S 1197, S 1198, S 1199, S 1200, and S 1201** have been correctly printed.

DARRINGTON, Chairman

**S 1192, S 1193, S 1194, S 1195, S 1197, S 1198, S 1199, S 1200, and S 1201** were referred to the Finance Committee.

**S 1196** was referred to the Local Government and Taxation Committee.

March 6, 2007

The TRANSPORTATION Committee reports out **S 1115** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

McGEE, Chairman

There being no objection, **S 1115** was referred to the Fourteenth Order of Business, General Calendar.

President Risch assumed the chair.

March 6, 2007

The TRANSPORTATION Committee reports out **HJM 3** with the recommendation that it do pass.

McGEE, Chairman

**HJM 3** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the desk for one legislative day.

March 6, 2007

The COMMERCE AND HUMAN RESOURCES Committee reports out **H 139** with the recommendation that it do pass and with the recommendation that it be placed on the Consent Calendar.

ANDREASON, Chairman

**H 139** was filed for second reading.

March 6, 2007

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1183, H 102, H 135, and H 136** with the recommendation that they do pass.

ANDREASON, Chairman

**S 1183, H 102, H 135, and H 136** were filed for second reading.

March 6, 2007

The EDUCATION Committee reports out **H 182** with the recommendation that it do pass and with the recommendation that it be placed on the Consent Calendar.

GOEDDE, Chairman

**H 182** was filed for second reading.

March 6, 2007

The EDUCATION Committee reports out **H 202** with the recommendation that it do pass.

GOEDDE, Chairman

**H 202** was filed for second reading.

March 7, 2007

The LOCAL GOVERNMENT AND TAXATION Committee reports out **H 181**, **H 189**, **H 197**, and **H 198** with the recommendation that they do pass.

HILL, Chairman

**H 181**, **H 189**, **H 197**, and **H 198** were filed for second reading.

March 7, 2007

The FINANCE Committee reports out **S 1192**, **S 1193**, **S 1194**, **S 1195**, **S 1197**, **S 1198**, **S 1199**, **S 1200**, and **S 1201** with the recommendation that they do pass.

CAMERON, Chairman

**S 1192**, **S 1193**, **S 1194**, **S 1195**, **S 1197**, **S 1198**, **S 1199**, **S 1200**, and **S 1201** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

#### Messages from the House

March 6, 2007

Mr. President:

I transmit herewith **H 223**, **H 257**, **H 258**, **H 259**, **H 241**, **H 222**, and **H 252** which have passed the House.

JUKER, Chief Clerk

**H 223**, **H 257**, **H 258**, **H 259**, **H 241**, **H 222**, and **H 252** were filed for first reading.

March 6, 2007

Mr. President:

I return herewith **S 1049**, **S 1050**, **S 1055**, **S 1057**, **S 1058**, **S 1060**, **S 1061**, **S 1018**, **S 1001**, **S 1002**, **S 1003**, **SCR 108**, **SCR 109**, **SCR 110**, **SCR 105**, **S 1015**, **S 1084**, **S 1086**, **S 1043**, **S 1167**, **S 1168**, **S 1176**, **S 1177**, and **S 1012** which have passed the House.

JUKER, Chief Clerk

**S 1049**, **S 1050**, **S 1055**, **S 1057**, **S 1058**, **S 1060**, **S 1061**, **S 1018**, **S 1001**, **S 1002**, **S 1003**, **SCR 108**, **SCR 109**, **SCR 110**, **SCR 105**, **S 1015**, **S 1084**, **S 1086**, **S 1043**, **S 1167**, **S 1168**, **S 1176**, **S 1177**, and **S 1012** were referred to the Judiciary and Rules Committee for enrolling.

March 6, 2007

Mr. President:

I transmit herewith Enrolled **HCR 10**, **H 78**, and **H 141** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **HCR 10**, **H 78**, and **H 141** and ordered them returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

#### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

President Pro Tempore Geddes was recorded present at this order of business.

**H 223**, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

**H 257**, **H 258**, and **H 259**, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

**H 241**, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

**H 222** and **H 252**, by State Affairs Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

#### Second Reading of Bills

**H 51** and **H 52**, by Transportation and Defense Committee, were read the second time at length and filed for third reading.

**H 180**, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

**S 1166**, by State Affairs Committee, was read the second time at length and filed for third reading.

**H 86** and **H 87**, by Resources and Conservation Committee, were read the second time at length and filed for third reading.

**H 176**, by Judiciary, Rules, and Administration Committee, was read the second time at length and filed for third reading.

**S 1185** and **S 1182**, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

**H 183**, by Education Committee, was read the second time at length and filed for third reading.

**H 121**, **H 157**, **H 158**, and **H 4**, by Health and Welfare Committee, were read the second time at length and filed for third reading.

**S 1184**, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

**S 1189**, **S 1190**, and **S 1191**, by Finance Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

### Third Reading of Bills

Senator Stegner was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, **S 1169** retained its place on the Third Reading Calendar for one legislative day.

**S 1156**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. President Pro Tempore Geddes and Senator Stennett arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Darrington, Geddes, Hammond, Heinrich, Jorgenson, Kelly, Keough, Langhorst, Lodge, Malepeai, McGee, McKague, Richardson, Stennett, Werk. Total - 23.

NAYS--Corder, Davis, Fulcher, Gannon, Goedde, Hill, Little, McKenzie, Pearce, Schroeder, Siddoway, Stegner. Total - 12.

Total - 35.

Whereupon the President declared **S 1156**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

**S 1172** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bair, Bastian, Cameron, Darrington, Davis, Fulcher, Geddes, Goedde, Heinrich, Hill, Jorgenson, Keough, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Siddoway. Total - 20.

NAYS--Andreason, Bilyeu, Broadsword, Burkett, Coiner, Corder, Gannon, Hammond, Kelly, Langhorst, Malepeai, Schroeder, Stegner, Stennett, Werk. Total - 15.

Total - 35.

Whereupon the President declared **S 1172** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

### General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

### Report of the Committee of the Whole

Senator Little, Chairman of the Committee of the Whole, reported out **H 190**, without recommendation and without amendment; and **H 130**, **S 1157**, **S 1136**, **S 1159**, and **H 25**, without recommendation, amended as follows:

### SENATE AMENDMENT TO H 130

#### AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 27, delete "any commercial or" and insert: "wind or geothermal energy projects,"; delete lines 28 through 30, and insert: "enterprises, retail sales outlets, business and professional office buildings, hospitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For"; and in line 32, delete "~~communication site leases,~~" and insert: "communication site leases,".

### SENATE AMENDMENT TO S 1157

#### AMENDMENTS TO SECTION 1

On page 2 of the printed bill, in line 17, delete "or"; in line 18, delete "." and insert: "; or"; and following line 18, insert:

"(h) For food assistance for a dependent child under eighteen (18) years of age.;"

in line 24, delete "by requiring the" and insert: "by:"; delete line 25 and insert:

"(a) Employing electronic means to verify an applicant is legally present in the United States; or";

in line 26, delete "(a) Produce:" and insert:

"(b) Requiring the applicant to provide:";

in line 42, delete "(b) A" and insert:

"(c) Requiring the applicant to provide a"; delete lines 44 through 47, and insert:

"(d) Requiring the applicant to attest, under penalty of perjury and on a form designated or established by the agency or the political subdivision, that:";

and delete lines 52 through 55 and insert:

"(5) Notwithstanding the requirements of subsection (4)(b) of this section, the agency or political subdivision may establish by appropriate legal procedure such rules or regulations to ensure that certain".

On page 3, in line 3, delete "(c)" and insert: "(d)"; in line 17, delete "(c)" and insert: "(d)"; in line 22, delete "(c)" and insert: "(d)"; in line 25, delete "(c)" and insert: "(d)"; and delete lines 26 through 28 and insert:

"(7) An agency or political subdivision may accept as prima facie evidence of an applicant's lawful presence in the United States the information required in subsection (4) of this section, as may be modified by subsection (5) of this section, when issuing a professional license or a commercial license."

#### CORRECTIONS TO TITLE

On page 1, delete line 7, and insert: "MAKING BY AGENCIES AND REGULATION-MAKING BY POLITICAL SUBDIVISIONS, TO PROVIDE FOR PENALTIES AND TO PERMIT CERTAIN INFORMATION TO BE ACCEPTED AS PRIMA FACIE EVIDENCE OF LAWFUL PRESENCE IN THE UNITED STATES FOR SPECIFIED PURPOSES; AND TO PROVIDE FOR SEVERABILITY."

#### SENATE AMENDMENT TO S 1136

##### AMENDMENT TO SECTION 1

On page 2 of the printed bill, delete lines 2 through 6.

#### AMENDMENTS TO SECTION 2

On page 2, in line 19, following "section." insert: "Ground water rights shall not be eligible for donation under this section."; in line 21, delete "rights." and insert: "rights and to adopt local procedures."; also in line 21, delete "following" and insert: "members of the water district 37/37M advisory committee. In addition, the district watermaster and other individuals that may be appointed by the board, upon recommendation of the advisory committee, shall serve as ex officio members of the local committee."; delete lines 22 through 30; in line 40, delete "beneficial" and insert: "consumptive"; in line 41, following "rights." insert: "The burden of proof shall be on the owner of the donated water right to demonstrate by clear and convincing evidence that injury will not result to other water rights."; in line 46, delete "rights," and insert: "rights and to provide for continued incidental recharge, or managed recharge, as necessary to maintain historic recharge patterns."; in line 48, following "rights." insert: "All donated water rights with points of diversion on the Big Wood River downstream of the 45 district canal shall flow through the bypass canal and be returned to the Big Wood River through the western branch of the 57F canal from the 57F divide. In addition, all water rights from the southern branch of the 57F divide shall be delivered through the bypass extension canal. A measuring device approved by the watermaster shall be installed at the beginning of the western branch of the 57F canal."; in line 52, following "sion)." insert: "In addition, all donated water rights with points of diversion located on the Big Wood River upstream of the 45 district canal shall be diverted into the 45 district canal in order to enhance local water supplies and to increase stream flows in Silver Creek and the Little Wood River."

On page 3, in line 8, following "committee." insert: "Any additional water district expenses resulting from the administration of water rights donated under this section shall be treated as expenses related to the administration of nonconsumptive water rights under section 42-605A, Idaho Code, and shall be collected by the watermaster from the owners of the donated water rights or other persons agreeing to pay such costs."

#### AMENDMENT TO SECTION 4

On page 3, in line 17, following "2007." insert: "The provisions of this act, and any minimum stream flow water rights established pursuant to the provisions of this act, shall be null and void and of no further force and effect as of December 31, 2012, unless extended by the Legislature."

#### CORRECTIONS TO TITLE

On page 1, in line 5, delete "AND TO PROVIDE FOR THE DISTRIBUTION OF DONATED WATER"; in line 9, following "DATE" insert: ","; and in line 10, delete "AND"; and also in line 10, following "BOARD" insert: "AND PROVIDING A SUNSET CLAUSE".

#### SENATE AMENDMENTS TO S 1159

##### AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 26 through 31, and insert:

"(i) The signer is unable to handwrite the signer's name;

(ii) The mark is affixed in the presence of the notary in a manner which the notary can directly observe;

(iii) The notary writes below the mark the following: "Mark affixed by (printed name of signer by mark)."; and".

#### AMENDMENTS TO SECTION 2

On page 2, in line 46, delete "Witness Signature: ....."; and in lines 47 and 48, delete "(name and address of witness) and".

#### AMENDMENTS TO SECTION 3

On page 3, in line 44, delete "Witness Signature: ....."; and in line 46, delete "(name and address of witness) and".

#### SENATE AMENDMENT TO H 25

##### AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 14, following "account" insert: "for endowment land management, and to the general account for all other activities".

#### CORRECTION TO TITLE

On page 1, in line 4, following "ACCOUNT" insert: "FOR ENDOWMENT LAND MANAGEMENT, AND TO THE GENERAL ACCOUNT FOR ALL OTHER ACTIVITIES".

The Committee also has **H 81**, **H56**, and **S 1141** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

**S 1157**, as amended, **S 1136**, as amended, and **S 1159**, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

**H 130**, as amended in the Senate, and **H 25**, as amended in the Senate, were filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

**H 190** was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

**Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:50 p.m. until the hour of 10 a.m., Thursday, March 8, 2007.

JAMES E. RISCH, President

Attest: RUSTI HORTON, Assistant Secretary